IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 20408 of 2003

Between:

M. Nagabhushanam S.o. Krishnaiah
R/o. 112, Nehru Street, Tirupathi, Chittoor District.

..... PETITIONER

AND

1 T.T. Devasthanams, Tirupathi, rep., by its Executive Officer, Tirupathi.
2 The Executive Engineer-III, T.T. Devasthanams, Tirupathi
3 Tallapaka Gangamma Temple, Rep., by its Executive Officer,Tirupathi.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ in the nature of a writ of mandamus or any other appropriate writ, direction order or orders declaring the notice issued by the 2nd respondent in ROC. No. A7/1700/EE-III/TTD/87 dated 16-9-2003 as wholly arbitrary, illegal without jurisdiction and void.

For the Petitioner:MR.M.P.CHANDRAMOULI, Advocate.

For the Respondent No.: MR.M.ADINARAYANA RAJU, Standing counsel.

The Court Made the Following :

ORDER:

This writ petition is filed for issuance of a writ of mandamus declaring the notice issued by the 2nd respondent in Roc.No.A7/1700/EE.III/TTD/87, dated 16.9.2003 directing the petitioner to vacate the bunk in the premises of Tallapaka Gangammavari Temple, Tirupathi, as illegal and arbitrary.

The third respondent has leased out the schedule premises to the petitioner during the year 1975 for selling pujasamagri. Since then the petitioner is in possession and enjoyment of the suit premises by erecting two bunks therein. When the T.T. Devasthanam tried to dispossess the petitioner from the schedule premises as the premises was required for widening of road, the petitioner filed O.S.No.648 of 1987 on the file of the 1st Additional District Munsif, Tirupati, seeking permanent injunction restraining the respondents 1 to 3 herein from interfering with the possession and enjoyment of the suit schedule bunk and the said suit was dismissed on 7-8-1991. Aggrieved by the dismissal of the said suit, he preferred first appeal bearing A.S.No.57 of 1991 on the file of the Family Judge-cum-Additional Judge, Tirupathi, which was dismissed on 17-7-1997 against which second appeal in S.A.No.743 of 1997 was preferred by the petitioner and the same was also dismissed on 7.2.2003 confirming the judgment and decree

of the Court below. After dismissal of the second appeal, T.T. Devasthanam issued the impugned notice 16-9-2003 calling upon the petitioner to vacate the premises. Hence the present writ petition.

The said road widening was taken up by the T.T. Devasthanam. They have taken the development activity in place of the municipality for widening the road and maintaining the same, for which, the 3rd respondent has no objection to take possession of the said property for widening purpose. It is also stated in the counter filed by the 3rd respondent that the proposal sent for approval of lease was rejected by the Commissioner on 8-1-2001 and the petitioner cannot continue in possession of the suit property. In view of the same, the contention made by the learned counsel for the petitioner that the notice issued by T.T. Devasthanam calling upon the petitioner to vacate the premises for enabling it to widen the road, is not sustainable, cannot be accepted.

The learned counsel for the petitioner tried to impress upon the Court that the road is already widened by the respondents and it is evident from the proceedings issued by the Inspector, Endowments Department, Tirupathi, dated 30-10-2001 requesting appropriate order from the Commissioner for collecting the rent.

It is evident from the counter filed by the 3rd respondent that the proposal sent for approval of lease was rejected by the Commissioner of Endowments and the petitioner is in unauthorized occupation. In view of the same, it is always open to the 1st and 2nd respondents to take possession of the property, which is in unauthorized occupation of the petitioner, for road widening and issuance

of impugned notice calling upon the petitioner to vacate the suit premises, does not suffer from any infirmity.

Accordingly, the writ petition is dismissed. No costs.

Assistant Registrar

// True Copy//

Section Officer

To

1. Executive Officer, T.T. Devasthanams, Tirupathi, Chittor District.
2. Executive Engineer-III, T.T.Devasthanams, Tirupathi, Chittor District.
3. Tallapaka Gangamma Temple, Rep. by its Executive Officer, Tirupathi, Chittor District.
4. 2 C.D. copies.

Nn/Js.